

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ICON INTERNATIONAL, INC,

1:22-cv-04304-MKV

Plaintiff,

-against-

ORDER

ELEVATION HEALTH, LLC,

Defendant.

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ELEVATION HEALTH, LLC,

Counterclaim Plaintiff,

-against-

ICON INTERNATIONAL, INC.,

Counterclaim Defendant,

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ELEVATION HEALTH, LLC,

Third-Party Plaintiff,

-against-

GYPSET, INC., DAYNA ZEGARELLI, JOE
DAVIS, CLARENCE V. LEE III, MARIO
GONZALES, and KHALID ITUM,

Third-Party Defendants.

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The parties having appeared before this Court for a discovery conference on
December 15, 2023, it is hereby

ORDERED that on or before December 15, 2023, ELEVATION HEALTH LLC
("Elevation") shall serve supplemental interrogatories on ICON INTERNATIONAL,

INC. (“ICON”) concerning chain of custody and related information, ICON’s authorized distributor status, and ICON’s purchase of Test Kits from iHealth, and ICON shall respond to such supplemental interrogatories on or before December 22, 2023;

ORDERED that on or before December 22, 2023, ICON shall produce documents reflecting their purchase of Test Kits from iHealth and the revocation of ICON’s authorized-distributor status by iHealth;

ORDERED that on or before December 22, 2023, ICON and the Third-Party Defendants shall serve any additional document production, without prejudice to Elevation’s argument that ICON and the Third-Party Defendants should be precluded from relying on any documents that did not produce on or before October 19, 2023 (the extended deadline for such production);

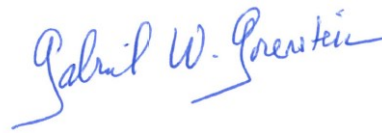
ORDERED that on or before December 22, 2023, counsel for ICON and the Third-Party Defendants shall forward to counsel for Elevation all document productions, and all emails with attachments, that were previously sent to Leo Esses, Esq., prior counsel for Elevation;

ORDERED that on or before December 22, 2023, ICON and GYPSET, Inc. (“Gypset”) shall each answer Requests for Admissions ## 1 and 5, ICON shall answer Request for Admission #10, and Gypset shall answer Request for Admission #11.

ORDERED that Elevation may, but is not required to, serve notice(s) of deposition pursuant to Fed. R. Civ. P. 30(b)(6), and the deadline for any such fact deposition is extended to January 31, 2024, without affecting the other discovery deadlines set previously;

ORDERED that judgment is reserved at this time on the issue of sanctions for the failure of ICON and the Third-Party Defendants to engage in discovery, including but not limited to counsel's refusal to describe in writing the steps taken to search for and produce documents, and judgment is reserved on Elevation's requests for sanctions including preclusion and adverse inferences, and nothing in this order shall be construed to prejudice those arguments, which are preserved.

Dated: December 18, 2023
New York, New York



Magistrate Judge Gabriel W. Gorenstein